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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/785,256 | 02/23/2004 | Michael J. Mann | | 8853 |

7590 11/12/2004
Edward P. Dutkiewicz
640 Douglas Avenue
Dunedin, FL 34698

EXAMINER

LEE, JONG SUK

ART UNIT PAPER NUMBER

3673

DATE MAILED: 11/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/785,256

Applicant(s)

MANN ET AL. 

Examiner

Jong-Suk (James) Lee

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

2. The disclosure is objected to because of the following informalities:

On page 2, line 5: -- now, abandoned -- should be inserted after "entitled Remediation System" in order to clarify the status of the parent application.

Appropriate correction is required.

Claim Objections

3. Claim 1 is objected to because of the following informalities:

Claim 1, lines 61-62: "an eighteenth stream 18 " should be --the eighteenth stream--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1: The limitation, “the quality of the output seventeenth output stream” in line 52 renders the claim indefinite because it is not clear as to which stream the output comes from. Further, “the ...seventeenth output stream” lacks clear antecedent basis.

The limitation, “streams 5 and 17” in line 59 renders the claim indefinite because it is not clear as to whether they are the fifth and seventeenth stream, or the reference numeral.

Furthermore, the limitation, “an eighteenth stream 18” is also confusing with the reason mentioned above.

Re claim 2: The limitation, “screens to move water and particulates through the above listed components” in lines 16-18 renders the claim indefinite because it is not clear as to whether the screens are relating to or distinguished from the primary scaling screen, static screen or vibrating screen.

Re claim 7: The limitation, “with flocculant injection ring” in line 8 and 11, respectively renders the claim indefinite because it is not clear as to whether they are the same or different structural elements.

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Claims 3-6 are also considered to be indefinite because they are dependent upon claim 2.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103^o and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cyr (US 5,244,492) in view of Lahoda et al (US 5,268,128).

Cyr discloses a process for recovery of mercury contaminated soil comprising of: a primary scalping screen (10), a primary sump (16) and a primary pump, a large diameter maximum density separator/cyclone (20), a secondary sump (18) and a secondary pump, a small diameter maximum density separator (24), a static sieve screen (14), a flocculation sump (26), a vibrating screen (17, 19), a dewatering device (35), a tertiary sump (30) and a tertiary pump, a secondary flocculation tank/flocculator (32) with a flocculant injection/addition apparatus (86) from the small diameter maximum density separator/cyclone (20), wherein the screens to move

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water and particulates through the components for separating larger particles from smaller particles and to dewater the particles (see Fig. 1; col.2, lines 26-68; col.3, lines 1-68; col.4, lines 1-68; col.5, lines 1-23).

However, Cyr fails to specifically disclose a flocculant injection ring to a large diameter maximum density separator. Lahoda et al disclose a method and apparatus for cleaning contaminated particulate material comprising of a flocculant injection/addition apparatus providing the flocculant, such as Nalco 7182, an anionic polymer, to the flow (48) of the mineral jig (18) from the effluent of soil particles from the mechanical separator/ large diameter maximum density separator (10) and to dewatering apparatus (50) (see Figs. 1-3; col.5, lines 41-57; col.6, lines 1-37).

Therefore, in view of Lahoda et al, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to the flocculant injection/addition apparatus to the large diameter maximum density system/flocculation tank in order to speed up the particle screening process by the flocculation of the large particle effluent.

With respect to the ranges for the screen openings such as 300 micrometers to one inch, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to control the screen/sieve openings to such a range in order to provide screened fluid and solid mixture for the desired treatment process.

Allowable Subject Matter

8. Claims 1 and 7 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references cited disclose a contaminated sediment treatment, mineral separation, a system and method for recovering aggregate fine size particles and a method of treating contaminated soils.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jong-Suk (James) Lee whose telephone number is (703) 308-6777. The examiner can normally be reached on 6:30 am to 3:00 pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Lee /jjl
November 9, 2004



**Jong-Suk (James) Lee
Primary Examiner
Art Unit 3673**